

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Revision of the Commission's Rules to Ensure)	CC Docket No. 94-102
Compatibility with Enhanced 911 Emergency)	
Calling Systems)	
)	
To: The Wireless Telecommunications Bureau		

AMENDMENT TO REQUEST FOR LIMITED WAIVER

Conestoga Wireless Company, Inc. ("Conestoga"), by its attorneys and pursuant to Sections 1.3 and 1.925 of the Commission's Rules, hereby amends its pending request for limited waiver of the deadline by which digital wireless systems must be capable of transmitting 911 calls from Text Telephone Devices ("TTY").¹ In particular, Conestoga initially sought a 90-day extension for it to implement TTY capability due to vendor delays in making appropriate software upgrades available. This request remains pending. While Conestoga took the steps necessary to upgrade its GSM network in the timeframe contemplated in its waiver request, Conestoga has encountered technical problems (described below) that prevent it from installing the final base station software upgrades it will need to provide TTY without compromising the functioning of important network management software on which it relies. Conestoga and its vendor are formulating a solution to this problem that is expected to take an additional 60 to 90 days to fully implement. Conestoga therefore requests that it be allowed until December 31, 2002 to integrate, test and deploy TTY capability throughout its network. In support of this request, the following is shown:

¹ See Request for Limited Waiver of Conestoga Wireless Company, CC Docket No. 94-102, filed June 26, 2002.

I. BACKGROUND

Conestoga is a small broadband PCS carrier that provides service using C- and D-Block channels in the Pennsylvania Basic Trading Areas ("BTAs") of Pottsville (Market B360), Reading (Market B370), State College (Market B429), Sunbury-Shamokin (Market B437) and Williamsport. (Market B475). Conestoga's digital wireless network uses GSM infrastructure equipment from Nortel Networks ("Nortel"). As a result, Conestoga is dependent on Nortel for the development and testing of an acceptable digital TTY solution.

Nortel's TTY solution for GSM networks consists of software for the Base Station System (BSS) and the Mobile Switching Center (MSC). Nortel has confirmed that lab testing and debugging of its TTY solution were underway this past January, but the software was still producing unacceptably high character error rates.² These poor test results prevented Conestoga from placing an order for the upgrade prior to the general availability date, and ultimately made it impossible for Conestoga to meet the FCC's original deadline for providing TTY capability.

In its Quarterly TTY Report for April 2002, Conestoga notified the Commission that it was in the process of ordering the necessary TTY software upgrades from Nortel, and that the Company would make every effort to implement TTY capability in its markets prior to the June 30, 2002 deadline.³ However, as the Commission is aware, Nortel's TTY solution for GSM networks (which is being provided with the GSM13 software load) did not become commercially available until that May.⁴ Conestoga has since transitioned its network from GSM10 to GSM12

² See Nortel Networks Customer Response Template TTY/911 for GSM Systems, TTY Forum's Aggregate Report of Carriers for 4th Quarter 2001, CC Docket No. 94-102, filed January 14, 2001 ("*January 2001 TTY Forum Report*") at pps. 83-4.

³ See Conestoga Wireless Company E911 TTY Device Capability Report for April 2002, CC Docket 94-102, filed April 15, 2002.

⁴ See Nortel Networks Customer Response Template TTY/911 for GSM Systems – April 10, 2002, TTY Forum's Aggregate Report of Carriers for 1st Quarter 2002, CC Docket No. 94-102, filed April 12, 2001 ("*April*

and immediately to GSM13 base load software. Testing of the GSM13 upgrade was completed on September 18, 2002, and its switch is now fully capable of providing TTY service. However, technical problems arose which prevent Conestoga from installing the base station software component required for TTY capability (BSS v12.4) without compromising its ability to use software tools that it currently relies upon to perform important network management and diagnostic functions. Conestoga has been working with Nortel to resolve this problem and hopes to have an acceptable solution in place within the next six to eight weeks. Final testing and optimization of Conestoga's network should be completed no later than December 31, 2002.

II. GOOD CAUSE EXISTS FOR WAIVER OF THE JUNE 30, 2002 DEADLINE

Good cause exists for the FCC to grant Conestoga's request for a limited waiver of the June 20, 2002 TTY compliance deadline.⁵ Good cause is shown and waiver of a rule is appropriate if "special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."⁶ Similarly, under the Commission's rules governing Wireless Radio Services, the Commission may grant a waiver if, in view of unique or unusual factual circumstances of the case, application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.⁷

In Conestoga's case, special circumstances exist because the necessary software for providing digital TTY capability on Conestoga's GSM network was not available until shortly before the compliance deadline, and in any event, too late to allow proper implementation and

2002 TTY Forum Report") at page 87 ("The TTY software for the BSS is currently being validated at a customer site and should be commercially available by the beginning of May 2002.").

⁵ The Commission may grant an extension or waiver of a compliance deadline for good cause shown. See 47 C.F.R. § 1.3.

⁶ Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also WAIT Radio v. FCC, 418 F.2d 1153 (D.C. Cir 1969).

⁷ See 47 C.F.R. § 1.925(b)(3).

testing. Moreover, Conestoga completed multiple switch and base station software upgrades in its path to TTY compliance and it was preparing to install the last upgrade it would need when it discovered that the new software would compromise its ability to use its existing network management and diagnostic tools. Faced with the loss of network troubleshooting and diagnostic capabilities, and the potential loss of service to its customers, Conestoga is being forced to postpone its installation of the BSS v12.4 upgrade until an acceptable solution can be implemented in cooperation with Nortel.

It is important to note that the Commission is not being presented with an open-ended extension request, but instead can be assured of prompt compliance within a reasonable period after the original deadline. Conestoga's request for an additional six months (*i.e.*, until December 31, 2002) to deploy TTY capability is consistent with consistent with the limited waivers that the Wireless Bureau has granted to other small wireless carriers.⁸ Moreover, strict enforcement of the TTY compliance deadline in this instance would be inequitable and especially burdensome on a small carrier such as Conestoga because it lacks the resources and market power that larger carriers can use to influence vendor delivery schedules and to participate in technology development and beta testing programs.

Finally, the underlying purpose of Section 20.18(c) – “requiring carriers to achieve TTY/digital compatibility at the earliest possible date”⁹ – would be frustrated by strict enforcement of the rule's June 30, 2002 deadline in Conestoga's case. The FCC has suspended

⁸ See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-104, *Order*, DA 02-1540 (*rel.* June 28, 2002). The Wireless Bureau granted six-month temporary TTY waivers to at least six small carriers, including California RSA #3 Limited Partnership d/b/a Golden State Cellular; Eagle Telephone System, Inc.; Farmers Mutual Telephone Company; Leaco Rural Telephone Cooperative, Inc.; Missouri RSA #5 Partnership d/b/a Chariton Valley and Vtel Wireless Inc. Other small carriers received extensions lasting from seven months to one year.

⁹ *Fourth Report and Order* at ¶ 29.

and waived the compliance deadline as to digital wireless carriers for more than three years “because the technology did not exist to enable TTY signals to be transmitted over digital wireless systems at the time the rule was originally implemented.”¹⁰ When it became apparent that the wireless industry and representatives of the disability community had developed solutions for nearly all air interfaces, the FCC adopted a two-stage deadline where carriers were to have obtained all software upgrades and equipment necessary for their systems to be capable of transmitting 911 calls from TTY devices by December 31, 2001, and “an additional six-month period (until June 30, 2002) to integrate, test, and deploy the technology in their systems in conjunction with the public safety community.”¹¹ Enforcing a strict deadline against Conestoga when the necessary software upgrades for TTY capability on its GSM network were not available until May of 2002 would defeat the whole purpose of the rule, because it would deprive Conestoga of any meaningful opportunity to integrate, test and deploy the new technology in conjunction with PSAPs in its operating territory. In contrast, granting Conestoga an extension until December 31, 2002 (equal to the six-month testing period that the Commission found to be reasonable in the *Fourth Report and Order*) would promote these interests without significantly delaying the availability of digital TTY access to the hearing impaired in Conestoga’s operating territory. Moreover, Conestoga has demonstrated its good faith efforts to achieve compliance by ordering and installing all the required switch and base station software upgrades, and it would be compliant but for an unforeseen technical issue.

¹⁰ *Id.* at ¶ 7.

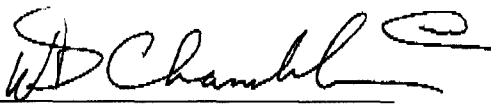
¹¹ *Id.* at ¶ 8.

III. CONCLUSION

Based on the foregoing, Conestoga respectfully requests that the Commission grant Conestoga a temporary waiver of Section 20.18 (c) of the Commission's Rules regarding the June 30, 2002 deadline and extend the deadline to permit Conestoga to implement its TTY solution by December 31, 2002.

Respectfully submitted,

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